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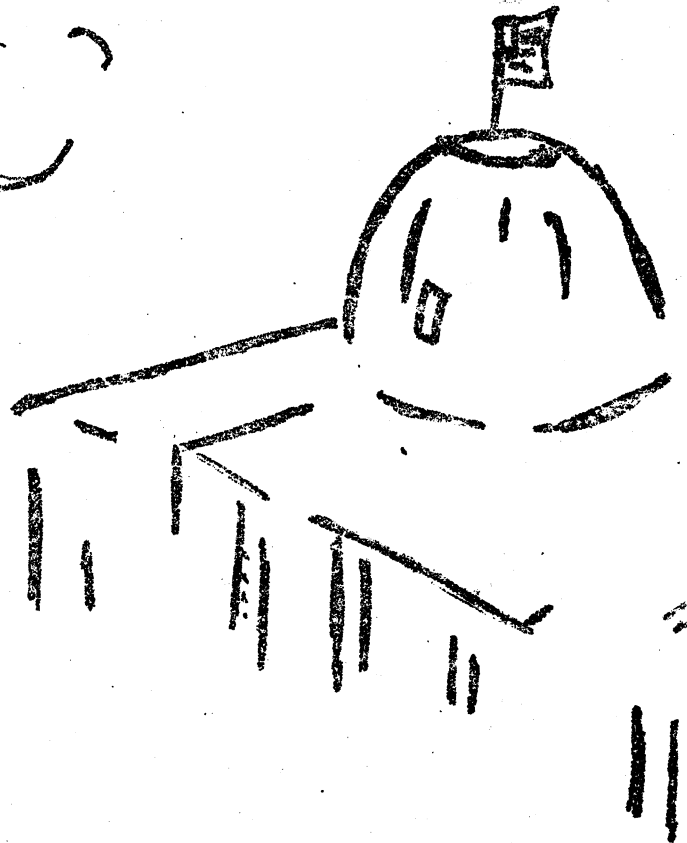
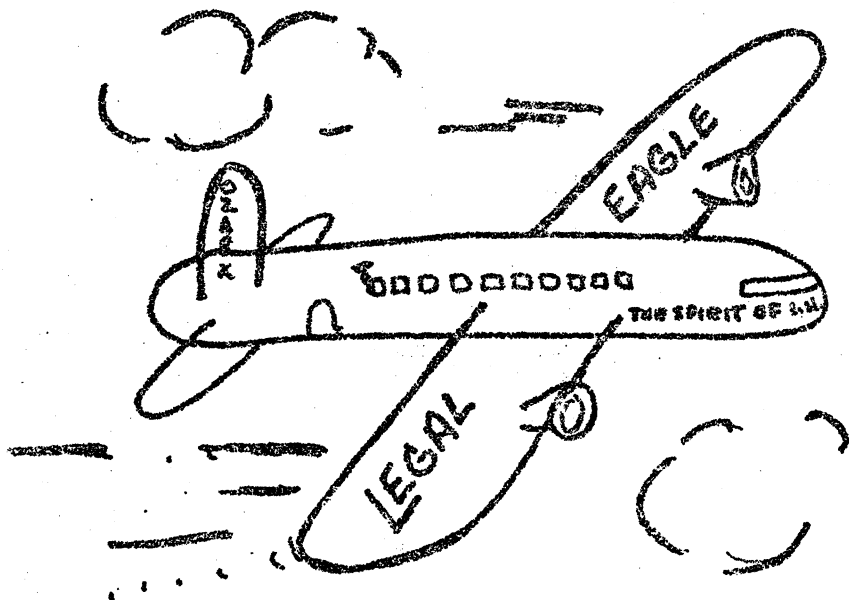
INDIANA UNIVERSITY
Maurer School of Law
Bloomington

THE

E.S. GOES TO D.C.
FOR COOL C.

★ ★

Appeal



IN THIS ISSUE:

"Mr. Sherman Goes to Washington."

R.O.N. RAYNE On B.A.L.S.A.

SPRING VACATION QUIZ

THE APPEAL

Issue No. 23 INDIANA UNIVERSITY SCHOOL OF LAW *****

The Appeal is published periodically at the Indiana University School of Law, Bloomington, Indiana. The views expressed in articles and editorials do not necessarily reflect the views of the Administration, Faculty, or Student Body. Opinions expressed are those of the writer, who alone is responsible for content and style. Unsigned editorials reflect the views of the editors. Permission is granted for reproduction of any article or any part of an article appearing in the Appeal, provided credit is given to both The Appeal and the article if the article is bylined.

Faculty Advisor: Philip Thorpe

Special Assistance and Sincerest Thanks:

Acting Dean D.G. Boshkoff

The Secretarial Pool

March 9th, 1972

in this one...

editors... Clancy, Garrettson....

sports editor... Fisher, Jabbar

Contributors in Chiefs... Mahoney, Manning, Reed, Dr. Novack;
Payne, Clancy, Garrettson.

Typists in Chief-- Garrettson, Magic Fingers will Type...

Burgerchef, J.

Take a break, a spring break.

When your last class ends Friday, take this simple multiple choice quiz on the nature of the coming vacation.

In which situation do you picture yourself???:

- (1) You are down in the hull of a Roman ship, helping to propel the vessel by rowing along with hundreds of other slaves. Charlton Heston is next to you, sweating his eyes out. Having rowed under the lash (snap! snap!) for seven weeks with no sleep, your eyes are bleary, and you can barely make it out as the messenger (played by Lon Chaney) brings a note to the slavedriver (played by Jack Palance). Palance reads the note: "By the tolerance of his honor, the Caesar, you may take a half hour rest. Take a break."
- (2) In the 'Dirty Dozen' training camp, you are working as hard as anybody else and enjoying it. You have a mission, a reason for living, a way to parole. The camaraderie of the group is startling. You love the long hours. Your roommate, a known racist and cheater on take-home exams, has proven to be an OK kind of a guy in his own sort of a way. While the two of you are standing watching Trini Lopez shinny up the rope, the Major in charge, (played by Lee Marvin or Dean White) comes over with a message that almost breaks your heart: "I know you guys love it, but you need a rest. This is an order. Take a break."
- (3) You are lying on a beach in the Bahamas, reading National Lampoon or Fleming on Procedure with a Rum Collins in your hand. A messenger comes up with a letter. It reads: "You've been in the sun too long. Your orders are to go to Aspen and await word. Take A break." Signed "M".
- (4) You, (Played by Warren Beatty) are sitting in a hotel lobby when she (played by Elizabeth Taylor) approaches and says: "You know this isn't the only game in town. Take a break"

NEWS FROM THE PAST, THE PRESENT.....

AFTER VACATION:

The Indiana Supreme Court will hear a case in the Moot Court Room here in Bloomington on March 26th. Attorney General Sendak will act on behalf of the state.

Dean Harvey will arrive in Bloomington March 16th and will be here the rest of the year.

The SBA's 'new format' Law Day will take place April 14th. The annual banquet has again been liberated.

The Intramural basketball playoffs finish. Fuzak, and a freshman squad, Russell, et. al., might be in it. Stuckey's team (a fine one) and Lewis' won't be.

Moot court arguments will begin. (News?????????????)

All those who are interested in assisting the Dean Search Committee should see Mike Fruewald or Carolyn Abron, or sign the interest sheet in the library.

BEFORE VACATION:

The first annual St. Patrick's Day Party was a great success, although John Hutchinson is said to have passed out in the midst of a memorable sentence and remains unable to complete his thought. It is also rumored that two R.A.'s from Wilkie were seen attempting to dye their clothing green while still wearing most of it.

Half of the Appeal editorial board recently returned from a sunny vacation in fun filled Peoria, Illinois.

Ms. Zilli is alive and well in Family Law

DURING VACATION:

A chance to catch up. The Income Tax final looms in the sunset.

State H.S. Basketball finals, here in Bloomington...

GRANT TAKES RICHMOND ----- SHERMAN TAKES THE CAPITOL

by Steve Manning

On Monday, February 28th, several members of Mr. Sherman's Military Law class, as well as some onlookers, were in Washington, D.C. A few members arrived early, on February 25th, in order to see arguments made before the Military Court of Appeals, which is the highest court in the military justice system. A description of the trip follows:

The first stop on the tour was a visit to Senator Bayh's office to discuss the prospects for a bill he is sponsoring to reform the military justice system. Basically, it seems quite unlikely that action will be taken on this bill this year, because those who are pushing the bill also have responsibilities of at least as high a priority, and because large amounts of public opinion have not yet been generated to back a comprehensive reform of the military justice system.

The group then moved to the Chambers of Chief Judge Darden of the Military Court of Appeals. As the highest court in the military system, this court is concerned that it be as independent as possible of the military, having only recently declined quarters in the Pentagon. The court consists of three judges appointed by the President. Among other things discussed, the Chief Judge made the following points:

The case load is very heavy - the court hears roughly 10% of the cases it is petitioned for, i.e. about 150 per year. Accordingly, expanding the size of the court would be a welcome development, if the case load did not increase too.

Decisions of the Military Court of Appeals are not normally reviewed by the Supreme Court.

Military and Civilian lawyers both may practice before the court. On the day arguments were seen, nearly all the attorneys were from the military. The Judges are not appointed for life, and this is thought to be a good feature. Enough continuity is thought to be present in the current system.

The final event was observation of the Military Court of Review, hearing a Viet Nam conscientious objector case in which Mr. Sherman argued for the defense. The Court of Review is the intermediate appellate court in the military system. Unlike the Court of Appeals, all the judges were in uniform. There were six judges sitting and the format was strongly reminiscent of Moot Court, with both sides subjected to a thorough grilling during the course of the arguments, which consumed roughly two hours in all.

Captain Novacaine's Hypo: The Guess Statute Problem, or, How
I Learned to Stop Worrying and Love Mourt Coot.

by Captain Novacaine

The disinherited son of a prosperous, middle-class tent and awning salesman, Mack was left in the last installment staggering from the wreckage of his Jaguar clutching his fifth of gin and the star of his libidinous heavens, Estelle, resplendent in skimpy halter, hip-hugging shorts, and intense pain and suffering racking her none too fungible figure. Since that moment, clouds have gathered over Mark's head. In the ensuing lawsuit he was taken to the cleaners, but, at the mercy of Judge Learned Salvo of the state of Kangaroo, his fine was reduced, enabling him to retain his shift knob, yo-yo, one sneaker, a pair of knickers, and his "Little 500" tee shirt. What Mark didn't lose in the Kangaroo Cleaners, this and more he lost to his now estranged wife, J. Weston, a janner of regular distinction for the "Bay Area Bombers." This judgment, handed down and enforced from the locker room at the Cow Palace, was extra-judicial and pre-trial, and the authorities, though uncertain whether it was a technical directed knock-out or a verdict, are certain of its finality and deny any hope for appeal.

For a period of four months following this decision, Mack's whereabouts were unknown until he turned up as a prize in a box of Cracker Jacks in Comiskey Park. After spending two unhappy months in the Windy City cavorting with an unsavory crew of paperboys, Mack, seeking a change in his fortune, applied to and is subsequently attending a mid-western law school. This further education was made possible by generous grants from two Chicago-based corporations, Midnight Auto Supplies, and the League of Spirited Gulu-ecy (L.S.G.) In his attempt at "Getting Straight," Mack's achievements were mediocre. His first year he pulled a C- average, and received a stack of summer job rejection slips five inches high. That summer, faced with the impossible choice of either returning to his Windy City life of sedition, or unemployment due to gathering depression and his inability to market his newly learned skills, Mack opted for idealism and chose the latter. In July, he was arrested in the Isles of Langerhans and indicted by the state of Kangaroo under its vagrants and suspicious persons statute.

Given the above facts, answer the following questions:

- 1.) The primary issue in this problem is
 - a) statutory rape, given that Mack is only 17
 - b) man's inhumanity to man
 - c) nothing
 - d) mens rea and/or cruel and unusual punishment
 - e) intellectual suicide
- 2.) Mack's best defense would be
 - a) insanity
 - b) reliance (self, and any other)
 - c) suicide
 - d) substantive due process of law
 - e) revolutionary rhetoric and public appeal
- 3.) Mack will find his niche in society only if he
 - a) sits back and waits for "meatball"
 - b) understands that "happiness is a warm gun"
 - c) "Keeps on Truckin'"
 - d) takes up pinball

e) can "grab" that he can't be a "Catcher in the Rye"

4.) Mack is

- a) The Incredible Hulls
- b) reality
- c) you
- d) false
- e) the new Dean (Deal?)

5.) Who said, "Raise high the roof beams, Carpenter"?

- a) John Musmanno
- b) Mack
- c) (W.) O.W. Holmes
- d) Seymour Glass
- e) Calvin Coolidge and/or Richard Nixon

6.) In a memorandum of no more than five pages and no less than six, citing as much legal authority as is relevant and available, answer the obvious questions presented by these facts and conclusions.

"What is not, but how, then if we, why do we?"

BALSA

The Black American Law Student Association (BALSA), Indiana chapter was formed two years ago with the primary purpose of advancing interests important to black law students. It was recognized that black students as a cognizable entity didn't have much of a tradition at the law school: that it was no accident that black enrollment jumped 300 percent in one year; that the pressures of the times necessitated increased black enrollment; and that the reasons for these pressures were of special interest to black students and needed to be advanced within the law school. Not only were the needs of legal education emphasized, i.e. financial aids, sustained recruitment, attrition rates, and curriculum, but post-graduate concerns as well. At one time, before the face of the student body here at the law school changed considerably, blacks found their interests in more progressive programs an exclusive one. Over the last several years, the law school student body has become more reflective of the various representative societal groups in its composition and consequently the demands of the student body in regards to the type of legal education desired has become more contemporary in scope. These contemporary demands have many times been closely related to the special interests of blacks resulting in a situation where many areas of concern to blacks have been given attention without the need for concerted black action.

On the surface then one might think the affairs of blacks are no worse than those of other students. Recruitment has resulted in increased black enrollment. Attrition rates aren't unusual. Financial aid has met minimum requirements. Curriculum has improved. A black professor is on the faculty and black students are participating in all facets of the law school organizational structure. One might even ask the question whether there is a need for an organization like BALSA. The question, however, would barely survive its statement.

There are several reasons why an organization with its primary emphasis the advancement of black as well as minority interests is needed. Even if the black students within the law school decide there is no advantage in working together, the decision would be a momentary one restricted to a particular generation of blacks in the law school. In the years to come succeeding generations of law students will probably expect and need an organization like BALSA if for nothing else than a coordinating body for information concerning financial aids from outside sources, special placement possibilities, and recruitment. More than that, however, minority students will have ideas and constructive projects that surely could more easily be facilitated by a loose confederation such as BALSA. Furthermore, BALSA can act as a central source of contact for groups outside the law school soliciting certain programs, activities, and needs deemed relevant to the special interests of blacks et. al. within the law school.

Discussion of the relative position of blacks at this law school cannot proceed without consideration of the individuals making up the group. Within the group there are a wide range of political, academic, and personal preferences. The only common thread of unity is of course racial, and this thread sometimes can be tested to the breaking point. Blackness in and of itself is not reason enough for formal organization. Casual recognition of identity may be enough. Many may feel that there should be unity not "because" but "for a cause."

The issue involves and relates to the struggle of black people in the 1960's when the transition was made from integration as a primary goal to other goals---group power, culture, identity, integrity, and pride. Commenting on this aspect of the black struggle as relates to students Professor Thomas F. Pettigrew of Harvard has stated:

Only a relatively small segment of blacks see these goals as conflicting with integration. Given the national events that have occurred during their short lives, it is not surprising that a growing number of young blacks regard racial integration less as an evil than as irrelevant to their pre-occupations. They often call for selective separatism of one or more aspects of their lives while also demanding their rights of entry into the society's principal institutions...The significant point is that the new thrust of black youth and its emphasis upon identity does not require absolute racial separation either of individuals or institutions...

Integration isn't the issue---separation isn't the issue either. The focus is on identity. This focus, however, isn't on the creation of identity, because identity is already present. That is to say that most black law students at this point in their lives have decided the role blackness will play in their life styles. Therefore the emphasis is on developing and recognizing those special interests (created by the presence of identity) in such a way that is appropriate for each student's needs. Some of the black students need academic stimulation; others need economic assistance; still others want social stimulation; and some want political motivation. Then there are those who feel they need or want no involvement at all. The conclusion is that, notwithstanding contemporary rhetoric, individual aspirations take priority over commitment to group, and instead of the group dictating behavior to the individual the converse is true. Thus, few rules or guidelines are present to determine where a group like BALSA may go. The direction is sporadic; especially for a BALSA group in Bloomington, Indiana.

Nevertheless, an organization is needed. The structure can take on a variety of forms different than BALSA. Whether it be in the form of a coalition with other student groups; the form of an ad hoc committee serving an administrative function; a series of decentralized groups handling specific projects or programs; or a group with the limited purpose of assisting first-year students depends on the attitudes of blacks.

Ronald Payne

BAR ASSOCIATION MEETING

On March 2, 1972 about a dozen law students met in the faculty lounge with representatives of the Indiana Bar Association. The Bar Association was represented by president Ben Weaver, past president Joe Hatfield, and executive director E.B. Lyle.

F. Reed Dickerson in conjunction with a student committee to improve relations between students and the Bar Association arranged the meeting which began with the explanation of the function of the Indiana Bar Association. Mike Huston, representing the Student Bar Association, described that organization's role in the law school. Discussion then turned to different proposals for improving relations between students and the Bar Association. Tom Clancy detailed a plan whereby the Student Bar Association would have a student representative in each county to keep in contact with the county bar association. The possibility of a student member on the Bar Association's Continuing Education Committee was discussed. Inquiry was made regarding the desirability and demand for supplying copies of "Res Gestae," the Indiana Bar Association's magazine, to law students. There was some discussion as to methods of soliciting the Bar Association's opinion of changes in class ranking and grading systems vis-a-vis employment. The Bar Association offered the use of their speaker's bureau to the law school. The speakers bureau, upon a request for a speaker on a particular subject, would arrange for a practicing attorney with expertise on that subject to speak. Some suggestions were made regarding the gaining of the Bar Association's support in encouraging the hiring of law students as clerks in the summer.

The accomplishments of this initial meeting lay more in the opening up of lines of communication between students and Bar than in substantive achievements. Perhaps the honest discussion and communication established an awareness of the interest and concerns of both the students and the Bar. Hopefully this meeting was a significant step toward better relations between Bar Association and students.